IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2007

CORAM:

THE HON'BLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.22397 OF 2004
AND
WP.MP.NOS.1690 OF 2006

S.N.D.Sampath ...Petitioner

Vs.

1.Special Deputy Commissioner of Labour,
(Appellate Authority under
Tamil Nadu Shops and Establishments Act, 1947)
D.M.S. Compound, Teynampet,
Chennai 600 006.

2.The Management of M.R.F.Ltd.,
represented by its Chairman and
Managing Director,
Registered Office
124, Greams Road,
Chennai 600 006.

3.The Senior General Manager,
(Human Resources & Services)
M.R.F.Ltd.,
124, Greams Road,
Chennai 600 006.

4.Mr.K.Jose,
Operation Manager (West)
M.R.F.Ltd.,
Poonam Chambers, Dr.Annie Besant Road,
Worli, Mumbai 400 018.

5.Mr.Sabu Varghese,
Office Manager,
M.R.F. Ltd., (District Office)
Poonam Chambers, Dr.Annie Besant Road,
Worli, Mumbai 400 018.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

6.The General Manager (Marketing Operations)
M.R.F.Ltd.,
124, Greams Road,
Chennai 600 006. . ..
Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus as stated within.

For Petitioner : Mr.V.Prakash
Senior Counsel
for Mr.P.Chandrasekaran

For Respondent 1 : Mr.N.Senthil Kumar
Additional Government Pleader

For Respondents
No.2 to 6 :M/s Ramasubramaniam
Associates

O R D E R

The petitioner has brought forth this writ petition seeking to issue a writ of Certiorarified mandamus calling for the records of the first respondent in TSE IA No.12 of 2003 in TSE No.4 of 2003 dated 23.12.2003 and quash the same and further direct the first respondent to dispose of the appeal on merits.

2. Affidavit filed in support of the petition is perused.

3. The Court heard the learned counsel on either side.

4. From the submissions made by the learned counsel for the petitioner and also looked into the materials available on record, it could be seen that the petitioner joined service of the respondent company at its Registered Office at Chennai on 02.06.1980 as Clerk-cum-Typist at Bangalore and was confirmed in January 1981 and he was subsequently promoted as Junior Assistant in the year 1983 and he was transferred to Belgaum and he was promoted as Senior Assistant and transferred to Mangalore in the year 1988 and in the year 1996, he was promoted as Management Assistant MS-1. From Mangalore, he was transferred to Panaji, Goa in the year 2001. He was in the sale Depot at Panaji, Goa, While he was attending clerical work relating to sales, on 18.1.2003, the Operation Manager (West), the fourth respondent herein and Mr.Sabu Varghese, Office Manager in the District Office, Mumbai, the 5th respondent herein came to the depot and asked from him a letter of resignation saying that the company has lost confidence in him and threatened either to resign or face

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

the consequences. He had no intention of resigning, but however due to the pressure exerted on him, he gave the letter of resignation and thereafter he rushed to Chennai and met the General Manager(Marketing) and told that the resignation letter was obtained under threat and he did not want to resign from service. He gave representation to the superiors about the same and also to the higher-ups stating that the the resignation letter was obtained from him under coersion and stated that he was withdrawing the resignation letter and he also sent the same by fax on 24.01.2003 with a copy to the District Manger (Mumbai)and also to the Executive Director (Marketing), the General Manager(Marketing) and the Chief General Manager (Human Resource and Service),Chennai. After having got the withdrawal letter withdrawing the resignation, on 25.01.2003 the petitioner received a telegram from the third respondent accepting the resignation and he also sent a letter dated 4.2.2003 confirming the contents of the said telegram. Thereafter, the petitioner preferred an appeal before the first respondent along with condonation of delay of 6 days in filing the appeal challenging the decision of the respondent management purportedly treating him as having resigned from service. Subsequently, the respondent management had filed their preliminary objection on the maintainability of the said appeal. The first respondent, on enquiry, has upheld the preliminary objections of the respondent Management and directed the petitioner to make his appeal before the authority at Goa under the Goa Shops and Establishment Act. Aggrieved over the same, the above writ petition has been brought forth by the petitioner before this Court.

5. The Court heard the learned counsel for the respondents on the above contentions.

6. According to the counsel for the during the relevant time, when he tendered his resignation, he was actually working in the company in Goa . Thereafter, though he has withdrawn his resignation from Chennai, the challenge has to be made only before the authority at Goa under the Goa Shops and Establishment Act at Chennai. Hence, the objections raised by the respondent management is correct and the writ petition has got to be dismissed.

7. The Court paid its anxious consideration of the submissions made.

8. The order of the first respondent has to be quashed on the short ground that originally the petitioner was appointed in Chennai and during the relevant point of time he was put in service at Goa and under the compelled circumstances, the resignation letter was obtained from him and thereafter he rushed to Chennai and sent the withdrawal of his resignation taking into consideration the fact that he got cause of action to challenge the same in both the places and non acceptance of the withdrawal of the resignation either at Goa or at Chennai under the respective Shops and Establishment Act. Learned counsel for the petitioner

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

has relied on a decision reported in Bikash Bhushan Ghosh & Others Vs. Novartis India Ltd., & another (2007) 5 Supreme Court Cases 591) wherein it has been held that where cause of action arising in more than one State in respect of the jurisdiction to refer and entertain an Industrial dispute, the State Government of the State, where part of cause action would arise, would also have jurisdiction to make the reference. Applying the said ratio ,this Court is of the considered opinion that the first respondent has got jurisdiction to entertain the matter between the parties and hence the order of the first respondent is set aside with a direction to the first respondent to take up afresh and proceed on merits and pass orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

9.With the above observation, the writ petition is disposed of. No costs. Consequently, WP.MP.No.1690 of 2006 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

VJY

To
1. The Special Deputy Commissioner of Labour,
(Appellate Authority under
Tamil Nadu Shops and Establishments Act, 1947)
D.M.S. Compound, Teynampet,
Chennai 600 006.

2. The Chairman and
Managing Director,
The Management of M.R.F.Ltd.,
Registered Office
124, Greams Road,
Chennai 600 006.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. The Senior General Manager,
(Human Resources & Services)
M.R.F.Ltd., 124, Greams Road,
Chennai 600 006.

4. The General Manager (Marketing Operations)
M.R.F.Ltd.,
124, Greams Road,
Chennai 600 006. .

+ 1 CC To Mr. P.Chandrasekaran, Advocate SR NO.57243

+ 1 CC To Mr. S.Ramasubramanian Associates, SR NO.57228

W.P.NO.22397 OF 2004
AND
WP.MP.NOS.1690 OF 2006

la[co]
gp/1.10.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/